

ORDER ADOPTING THE REPORT AND RECOMMENDATION AND DISMISSING ACTION WITHOUT PREJUDICE

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on May 25, 2023. To date, Eckard has failed to file any objections.

“[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845–46 (4th Cir. 1985).

Several mailings sent by the Court to Eckard in this case have been returned as undeliverable. It appears Eckard pled guilty and was sentenced in his state case on March 3, 2023, just two days after the Clerk’s Office docketed his complaint in this case. *See State v. Eckard*, 2021A2620600851 (Horry Cnty. Gen. Sessions March 3, 2023) (listing the disposition of the case as “Pled Guilty” and his sentence as “SCDC Snt 10Y”).

Because Eckard’s guilty plea presumably resulted in his transfer from a detention center to the South Carolina Department of Corrections and may have caused temporary loss of access to his legal materials—as evidenced by this Court’s mailings being returned—the Court shall dismiss this matter without prejudice.

After a thorough review of the Report and the record in this case under the standard set forth above, the Court adopts the Report to the extent it does not contradict this order and incorporates it herein. Therefore, it is the judgment of the Court this action is **DISMISSED WITHOUT PREJUDICE**. All motions are **DEEMED AS MOOT**.

IT IS SO ORDERED.

Signed this 22nd day of June 2023, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.